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In the Supreme Court

of the

United States

OCTOBER TERM 1968

PETITION NOT PRINTED

No. 987

ALAMEDA CONSERVATION ASSOCIATION, a California nonprofit corporation,
Petitioner,

vs.

CITY OF ALAMEDA, a municipal corporation, WILLIAM S. GODFREY, individually and as Mayor of Alameda, TERRY LACROIX, JR., individually and as Alameda City Councilman, SHORE LINE PROPERTIES, INC., a California corporation, BOARD OF TRUSTEES OF BAY FARM ISLAND RECLAMATION DISTRICT No. 2105, and the STATE OF CALIFORNIA,
Respondents.

Opposition to Petition for Writ of Certiorari

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Respondents.

Opposition to Petition for Writ of Certiorari

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

The opposition of Respondents City of Alameda, California, William S. Godfrey, Terry LaCroix, Jr., Shore Line Properties, Inc., and the Board of Trustees of Bay Farm Island Reclamation District No. 2105 respectfully shows:

I

THE PETITION FOR WRIT OF CERTIORARI WAS NOT TIMELY FILED

A writ of certiorari intended to review a judgment in a civil action must be applied for within ninety days after the entry of such judgment. 28 U.S.C. § 2101(c); Rule 22(3) of the Rules of this Court. The judgment sought to be reviewed in this action became final on September 18, 1968, when the Supreme Court of the State of California denied Petitioner's petition for a hearing therein. Ninety days from September 18, 1968 was December 17, 1968. The petition for writ of certiorari was not docketed until January 29, 1969.

Respondents were notified by letter from Petitioner's counsel, dated January 24, 1969, that an order extending time to file a petition for writ of certiorari to and including February 14, 1969 had been made and entered on January 11, 1969. None of Respondents was ever served with a copy of such application, as required by Rules 34(3) and 50(2) of the Rules of this Court. However, Respondents are advised by the office of the Clerk of this Court that application for this order was not received by the Clerk until on or after January 6, 1969. To support the order extending time to file, the application must have been presented to the Clerk within the period sought to be extended and should be submitted at least ten days before the expiration of the period sought to be extended. Rules 22(4) and 34(2) of the Rules of this Court. Petitioner's application for an extension of time within which to file its petition was not made until some 20 days *after* the expiration of the period sought to be extended and should have been denied pursuant to Rule 34(2).

II

THERE IS NO JURISDICTIONAL BASIS FOR REVIEW OF THIS ACTION BY THE SUPREME COURT

Petitioner seeks review of the judgment of a state court. The petition alleges violations of the Constitution of the United States of America and various federal statutes. However, the petition does not and cannot show any manner in which such alleged violations occurred. The questions raised below were solely questions of state law and were correctly decided by the state courts pursuant to existing state law. See *United States v. California*, 332 U.S. 19, 30, 67 Sup.Ct. 1658, 1664, 91 L.Ed. 1889, 1894, *rehearing denied*, 332 U.S. 787, 68 Sup.Ct. 37, 92 L.Ed. 370 (1947); *Boone v. Kingsbury*, 206 Cal. 148, 186, 273 Pac. 797, 814 (1928); *Knudson v. Kearney*, 171 Cal. 250, 152 Pac. 541 (1915); *People v. California Fish Co.*, 166 Cal. 576, 584, 138 Pac. 79, 82 (1913); *South Shore Land Co. v. Petersen*, 230 Cal.App. 2d 628, 41 Cal.Rptr. 277 (1964). The courts of the State of California should resolve disputes pertaining to California lands. *Petersen v. Alameda West Lagoon Home Owners' Ass'n*, 382 F.2d 555 (9th Cir. 1967). There is no federal question presented in this action so as to give this Court jurisdiction to review the judgment on writ of certiorari. 28 U.S.C. § 1257 (1948); *F. G. Oxley Stave Co. v. Butler County*, 166 U.S. 648, 655, 17 Sup.Ct. 709, 710-11, 41 L.Ed. 1149, 1151-52 (1897). *Cf. Hurn v. Oursler*, 289 U.S. 238, 53 Sup.Ct. 586, 77 L.Ed. 1148 (1933).

The petition necessarily fails entirely to set forth quotations or specific portions of the record (or even a summary thereof) showing the places in the record where the matter appears showing that the federal question was either timely or properly raised in the state courts as required

by Rule 23(1)(f) of the Rules of this Court. Under such circumstances this Court will not grant certiorari. *Wilson v. Cook*, 327 U.S. 474, 483-84, 66 Sup.Ct. 663, 668, 90 L.Ed. 793, 799 (1946).

In addition, the petition is formally defective in that it fails to set out verbatim or to include in an appendix the statutes relied upon. Rule 23(1)(d) of the Rules of this Court. Indeed, neither the matter essential to the points requiring consideration nor such points themselves can be ascertained from the petition. Rule 23(4) of the Rules of this Court. The petition should be denied for this reason alone.

III

CONCLUSION

The petition for writ of certiorari should be denied.

Respectfully submitted,

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Attorney for Respondents City of Alameda, William S. Godfrey and Terry LaCroix, Jr.

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Dated: February 24, 1969.

By WILLIAM H. ORRICK, JR.
for said Respondents